

December 17, 2010

TO: Markay Newton

FROM: Teresa Parsons, SPHR
Director's Review Program Supervisor

SUBJECT: Markay Newton v. Department of Health (DOH)
Allocation Review Request ALLO-10-013

On October 7, 2010, I conducted a Director's review conference regarding the allocation of your position. You and Human Resources Consultant Rozanne Stewart participated in the Director's review conference.

Director's Determination

This position review was based on the work performed for the six-month period prior to December 30, 2009, the date DOH's Human Resources (HR) Office received your Position Description Form (PDF). As the Director's designee, I carefully considered all of the documentation in the file, the exhibits presented during the Director's review conference, and the verbal comments provided by both parties. Based on my review and analysis of your assigned duties and responsibilities, I conclude your position is properly allocated to the Customer Service Specialist 4 classification.

Background

Your position is assigned to the Complaint Intake Unit within the Office of Customer Service in the Division of Health Systems Quality Assurance (HSQA) at DOH. You report to Customer Service Call Center Manager Joshua Shipe, who reports to Customer Service Director Shannon Beigert. Ms. Beigert reports to HSQA's Chief Administrator, Shannon (Sam) Marshall. On December 30, 2009, a PDF signed by Mr. Shipe and Ms. Beigert was submitted to DOH's HR Office requesting reallocation of your Health Services Consultant 1 position (Exhibit B-3). During the Director's review conference, both parties clarified that Mr. Shipe and Ms. Beigert had originally requested that your position be reallocated to the Health Services Consultant 3 classification (Exhibit A-4 attachment 6). However, after reviewing the PDF, Ms. Stewart recommended reallocation to the Customer Service

Specialist 4 (CSS 4) classification. By email dated February 1, 2010, Ms. Marshall asked Ms. Stewart to move forward with the reallocation of your position to the CSS 4 classification (Exhibit B-2). On March 5, 2010, Ms. Stewart notified you she was approving the request to reallocate your position to the CSS 4 classification (Exhibit B-5).

On March 31, 2010, you requested a Director's review of DOH's allocation determination.

Summary of Ms. Newton's Perspective

You assert your position manages the Complaint Intake Unit. You describe the Complaint Intake Unit as a health program that takes in all complaints for health professions and facilities with the exceptions of medical doctors and nurses. You state that the Complaint Intake Unit receives reports of professional misconduct from a variety of sources including the public, law enforcement, and employees working in other units at DOH. You indicate that your work unit serves as the starting point for the professional license disciplinary process. As such, you contend you supervise positions providing first level analysis and coordination of complaints, including an assessment of whether there is imminent danger regarding patient safety. As the unit supervisor, you assert your position is responsible for planning and evaluating health services delivery products by ensuring health profession and facility complaints are handled and processed in an efficient and responsible manner.

You describe health profession and facility credentials as health service delivery products and assert you supervise a staff that provides essential health services to the public by processing complaints against health providers and facilities. You also indicate that your position has responsibility for catching the most serious cases and calling together legal and investigative staff for emergency case management meetings. You contend that you participate as a member of the HSQA extended management team working across division offices to develop and improve policies and procedures. You contend the Complaint Intake Unit does not provide customer service as a core function, and you believe the CSS 4 class specification was arbitrarily applied to your position. You point out that your position had been an HSC 1 in a credentialing unit prior to the reorganization. Therefore, you contend your position should remain in the HSC class series, and you believe the HSC 3 is the appropriate level allocation for your position.

Summary of DOH's Reasoning

DOH recognizes the Complaint Intake Unit processes a high volume of work and that the work is very important to HSQA. DOH also acknowledges that some of the work performed in the Complaint Intake Unit and the Office of Customer Service had previously been performed in other program areas. However, DOH indicates that the HSQA Division reorganized approximately two years ago and that the reorganization resulted in centralizing services like customer service. DOH asserts the Complaint Intake Unit resides within the designated Office of Customer Service and does not function as a health program. Rather, DOH asserts the Complaint Intake Unit provides customer service in support of regulation

and disciplinary actions relating to complaints about health practitioners and facilities. DOH asserts your position supervises Customer Service Specialist positions processing the complaints received. DOH contends the Customer Service Specialist classes provide a more specific fit than the Health Services Consultant classes, based on the work performed in the Complaint Intake Unit. Overall, DOH asserts the CSS 4 is the appropriate classification for your position.

Rationale for Director's Determination

During the Director's review conference, both parties indicated that one of HSQA's primary responsibilities is to regulate health care professionals and facilities. Besides the Office of Customer Service, HSQA also includes the Office of Legal Services, Office of Investigation and Inspection, and the Office of Community Health Systems. The Office of Customer Service supports the regulation, licensing, and credentialing of health care professionals and facilities. This may include answering questions from health providers about licensing and credentialing, as well as from the public inquiring or lodging a complaint about a medical provider or facility. The organizational chart illustrates the units within the Office of Customer Service, including the Call Center, Renewals and Revenue, Complaints and Intake, Credentialing, Operations, the Adjudicative Clerk, and Public Disclosure. Your position is assigned to the Complaint and Intake Unit (Exhibits A-4 attachment 7 and B-8).

The purpose of a position review is to determine which classification best describes the overall duties and responsibilities of a position. A position review is neither a measurement of the volume of work performed, nor an evaluation of the expertise with which that work is performed. A position review is a comparison of the duties and responsibilities of a particular position to the available classification specifications. This review results in a determination of the class that best describes the overall duties and responsibilities of the position. Liddle-Stamper v. Washington State University, PAB Case No. 3722-A2 (1994).

Duties and Responsibilities

In the Position Objective on the PDF submitted for reallocation, your position has been described as an assistant manager of a statewide health program (Exhibit B-3). The organizational chart shows that you and two other supervisory positions report directly to Mr. Shipe, as the Customer Service Call Center Manager. The Position Objective further indicates that you direct the day-to-day operational work activities of the HSQA Complaint Intake Unit team, to include all aspects of complaint intake and complaint closure operations. The Complaint Intake Unit is within HSQA and not DOH as a whole. In addition, the Position Objective on the PDF describes your position as managing and directing frontline customer service staff responsible for processing health profession and facility complaints for more than 70 health profession and facility credential types statewide. Ms. Stewart noted that HSQA is one of the largest divisions within DOH. Both parties indicated that the Complaint Intake Unit you supervise under the Customer Service Call Center Manager differs from intake functions that occur in the Credentialing section.

Your staff processes complaints against health profession and facility credentials regulated by HSQA, which may include allegations of sexual misconduct, unlicensed practice, issues with applicant qualifications, and substandard care. As the supervisor, you ensure proper triaging of all incoming complaints and closing complaints against health providers within the established timelines required by law. You also coordinate complaint intake activities and supervise staff that opens all complaints within timelines, prepares complaint summaries, creates case files, and delivers complaints to Case Management for timely assessments. In addition to directing the day-to-day operations and workloads of the unit, you provide coaching, training, and feedback to staff, and you conduct regular evaluations and provide statistical performance data to staff and management.

The PDF describes 55% of your work as the functioning assistant manager of the statewide health program, which involves planning and evaluating the delivery of services. A closer look at the duties you perform in this capacity, as described on the PDF and Job Analysis Record, include the following (Exhibit B-3):

- Represent the unit in all discipline process related meetings and inquiries.
- Manage the triaging of all incoming complaints against health care providers and facilities within established timelines.
- Provide guidance, management expertise, and review complaint intake work products for quality assurance and completeness.
- Coordinate all aspects of the complaint intake procedures, notification and escalation procedures, and ongoing support for changes in complaint intake functions as discipline process changes occur.
- Determine potential risk of imminent danger, report imminent danger complaints to Case Management, and initiate an emergency case management team meeting (ECMT) if an imminent danger report is received.
- Perform "tier three" escalation point for angry, disgruntled callers and callers having complex complaints outside of standard complaint intake processes.
- Respond to and resolves inquiries, issues, and customer service related problems from health care practitioners, general public, state and federal agencies, other stakeholders, and HSQA staff.
- Provide feedback to responsible parties about complaint intake or closure processes, problems, concerns, and potential improvements.
- Under delegated authority, attend health profession board/commission meetings and formal hearings related to complaints.
- Under delegated authority, remove and assign case pending warning flags in the ILRS [Integrated Licensing and Regulatory System] database system when necessary.
- Attend Case Management Team (CMT) meetings as necessary.
- Provide complaint intake information and recommendations to the CMT, commission/board members, and HSQA Investigative and Legal staff to determine next steps.
- Respond to inquiries from the HSQA Legal Unit, Investigative Unit, and Board/Commission members on all matters related to complaint file status.

The PDF describes 30% of your work as supervising staff and the day-to-day operational work activities of the HSQA Complaint Intake Unit. In summary, the positions you supervise have been described as customer service positions in a designated customer service unit. Your staff processes complaints against health professionals and facilitates, which includes providing assistance and resolving problems in response to inquiries and status requests, as well as general questions regarding the complaint process (Exhibit B-9). As the unit supervisor, your position tracks performance measurement data and reports statistical results to staff and management. You assign work and track hours to determine sufficient staffing, maintain supervisor files, complete annual staff evaluations, identify needs and create plans for staff training to build capacity and offer opportunities for professional growth and development.

During the Director's review conference, you indicated that your unit receives calls forwarded from the Call Center or other program areas, investigators, attorneys, and the general public. Your staff also processes complaints received in the Complaint Intake inbox, which come from individuals filing complaints electronically via the website. Your staff processes complaints received by regular mail as well. You explained that your staff follows set criteria established within HSQA to determine whether there is a risk of imminent danger to the public. You indicated that your staff processes the complaint from start to finish, which includes reviewing and then summarizing the complaint on a summary worksheet; entering data such as name and address in the ILRS database; redacting information such as the complainant's name; combining the complaint file with any prior complaint or disciplinary history and forwarding the file to the case management team; closing the file and removing any warning flags in the ILRS database as directed; mailing the final letter that closes the case; and preparing files for records retention. As the supervisor, your position has responsibility for more complex issues that arise.

The PDF describes 10% of your work as developing and implementing health systems policies, procedures, legislation, and providing ongoing quality assurance of HSQA processes. This includes reviewing and analyzing legislative bills and developing and revising unit policies, procedures, forms, and manuals based on agency, division, or customer service needs. This also includes implementing the process or policy changes affecting the Complaint Intake Unit. During the Director's review conference, you clarified that you provided input regarding bill analysis and that your supervisor, Mr. Shipe, actually performed the bill analysis. You also noted that you participate as a member of the HSQA extended management team, which includes other supervisors and managers. Further, you attend case management meetings in which the case managers determine whether to forward a complaint to an investigator. You explained that your role is to assist with any questions about the processing of complaint files. You also assist other units that interact with your unit during the complaint process.

Class Specifications

When comparing the assignment of work and level of responsibility to the available class specifications, the class series concept (if one exists) followed by definition and distinguishing characteristics are primary considerations.

The classes within the **Health Services Consultant** series describe positions which provide professional health-services related consultation, assistance, and management regarding public health programs.

The Health Services Consultant 1 (HSC 1) has been defined as the "entry level" and states that positions must perform one or more of the following functions within the Department of Health;

- Maintains, monitors and updates specialized health databases regarding client eligibility, hospital patient data, vital statistics, enrollment, demographics and utilization.
- Promotes and assists with the evaluation of public health program effectiveness, compliance, and standards.
- Conducts public education outreach and/or prevention activities to improve public health.
- Maintains and distributes vaccine immunization biologicals and supplies.

The **Health Services Consultant 2** (HSC 2) definition states that positions provide "technical consultation and assistance to local health departments, clinics, community and other health services providers . . ." HSC 2 positions must meet one or more of the following functions:

- Disease prevention, health promotion, health education and training of providers and/or public, nutrition services, and health program policy.
- Assists management in the review, analysis and impact of health legislation, health policy, rule development, and fiscal management.
- Conducts assessment and/or data surveillance activities.

The HSC 2 distinguishing characteristics include working at the journey level of the Health Services Consultant series and working independently with the expectation to develop, innovate, and be responsible for the flow and completion of work. HSC 2 positions report to a higher level Health Services Consultant, equivalent position or a position in WMS.

The **Health Services Consultant 3** (HSC 3) definition describes this level as "an assistant manager of a statewide health program." HSC 3 positions must perform more than one of the following functions:

- Preparing and managing budgets, contracts or grants.
- Coordinates division fiscal management.
- Program planning and evaluation of health service delivery products.
- Developing and implementing health policies and procedures.

- Managing health data systems.
- Supervising staff providing health services to the public.

OR

Manages a region for the Department of Health.

OR

Serves as a senior health services consultant in a specialty area to WMS Band 2 or higher. The specialty must be designated and conveyed in writing by the Department of Health appointing authority.

The HSC 3 distinguishing characteristics note that positions work at the senior level and report to Health Services Consultant 4's, equivalent, or to a position in WMS.

While examples of typical work identified in a class specification do not form the basis for an allocation, they lend support to the work envisioned within a classification. I recognize the HSC 3 typical work statements include assisting management in the administration and provision of services to regulated professions regarding nursing, as well as the administration and implementation of profession-specific rules, policies and procedures relating to licensure and complaint investigation. While some of your work contains aspects of the work described in the HSC 3 typical work statements, the overall level of work assigned to your position does not reach the managerial or budget-related responsibilities described in the HSC 3 definition.

Further, the primary focus of your position is to coordinate complaint intake activities and supervise and manage the daily operations of the Complaint Intake Unit. Your staff performs processing functions by following standard guidelines and criteria. For example your staff opens complaints, creates files, enters information in the database, creates case summaries, forwards complaints to case managers and investigators, and closes complaint files after the case management team makes determinations regarding the complaints. You and your staff understand agency related laws, policies and procedures and respond to problems and issues encountered through processing complaints. However, higher level functions involving technical consultation, administration, and implementation of public health program services are handled within specific program areas. As the supervisor, your position manages the complexities of the Complaint Intake Unit and ensures satisfactory delivery of service. Although some aspects of your job may overlap with the Health Services Consultant series, the overall duties and responsibilities assigned to your position best align with the Customer Service Specialist class series.

The **Customer Service Specialist Class Series Concept** reads, in part, as follows:

Positions in this series provide assistance and problem resolution to agency clients/customers and are located in a designated customer service program. The intent of the series is to assist clients/customers in identifying agency processes and procedures, resolving client/customer problems related to

agency programs and interpreting agency related laws, policies and procedures. Positions at all levels may be assigned lead or supervisory responsibility over lower level staff.

This series is not clerical in nature. Clerical support duties are incidental to the total work assignment (less than 10%).

The **Customer Service Specialist 4** (CSS 4) definition states, in part, that a CSS 4 position "plans, organizes, and manages a designated customer service program for an agency sub-division or location" and "supervise[s] customer service staff . . ." Your position plans, organizes, and manages the work of the HSQA Complaint Intake Unit within the Office of Customer Service. You supervise a number of CSS 2 positions, one CSS 3 lead position, and you report to a WMS Customer Service Call Center Manager. In addition, the CSS 4 typical work statements closely align with the duties and responsibilities assigned to your position. For example, your position performs similar functions as follows:

- Conducts continuing analysis of agency customer service and initiates corrective action to meet changing needs;
- Consults with agency management on client/customer relations issues; recommends changes to agency procedures to enhance access to agency services;
- Plans and directs the program of the unit; reviews work for compliance with agency policy;
- Develops and implements customer service training;
- Provides consultation and facilitates customer service problem resolution.

I also considered the **Customer Service Manager** classification. However, the class series concept describes positions managing agency-wide programs with the intent to develop agency wide policies and procedures relating to client/customer service. Your supervisor retains overall responsibility for work at this level, though I recognize you contribute to policy and procedure development and manage procedures within your unit. I also considered the **Investigator 1** classification. However, the class series concept, definition, and distinguishing characteristics include duties to conduct investigations, gather facts, develop evidence to substantiate claims and allegations, and provide technical assistance and consultation. Again, some aspects of the Investigator 1 class may fit with the work assigned to your position. However, the CSS 4 classification best aligns with the overall scope and level of your position's duties and responsibilities.

During the Director's review conference, you had referenced other positions allocated to the Health Services Consultant series within the Office of Customer Service. Both the Personnel Appeals Board (PAB) and Personnel Resources Board (PRB) have consistently held that "[w]hile a comparison of one position to another similar position may be useful in gaining a better understanding of the duties performed by and the level of responsibility assigned to an incumbent, allocation of a position must be based on the overall duties and responsibilities assigned to an individual position compared to the existing classifications. The allocation or misallocation of a similar position is not a determining factor in the appropriate allocation of a position." Byrnes v. Dept's of Personnel and Corrections, PRB No. R-ALLO-06-005 (2006) citing Flahaut v. Dept's of Personnel and Labor and Industries, PAB No. ALLO 96-0009 (1996).

The PRB has also held that “[m]ost positions within the civil service system occasionally perform duties that appear in more than one classification. However, when determining the appropriate classification for a specific position, the duties and responsibilities of that position must be considered in their entirety and the position must be allocated to the classification that provides the best fit overall for the majority of the position’s duties and responsibilities.” Dudley v. Dept. of Labor and Industries, PRB Case No. R-ALLO-07-007 (2007).

It is clear the work you perform is highly valued and that your position is an asset to the Office of Customer Service and HSQA. A position’s allocation is not a reflection of performance or an individual’s ability to perform higher level work. Rather, an allocation is based on the majority of work assigned to a position and how that work best aligns with the available job classifications. The Customer Service Specialist 4 is the best fit for the overall duties and responsibilities assigned to your position.

Appeal Rights

RCW 41.06.170 governs the right to appeal. RCW 41.06.170(4) provides, in relevant part, the following:

An employee incumbent in a position at the time of its allocation or reallocation, or the agency utilizing the position, may appeal the allocation or reallocation to . . . the Washington personnel resources board Notice of such appeal must be filed in writing within thirty days of the action from which appeal is taken.

The mailing address for the Personnel Resources Board (PRB) is P.O. Box 40911, Olympia, Washington, 98504-0911. The PRB Office is located at 600 South Franklin, Olympia, Washington. The main telephone number is (360) 664-0388, and the fax number is (360) 753-0139.

If no further action is taken, the Director’s determination becomes final.

c: Rozanne Stewart, DOH
 Lisa Skriletz, DOP

Enclosure: List of Exhibits

Margaret (Markay) Newton v. Department of Health
ALLO-10-013

A. Markay Newton Exhibits

1. March 31, 2010 letter requesting Director's Review
2. Director's Review Request form, March 31, 2010, with attached statement from Ms. Newton
3. Organizational Charts from Office of Customer Service January & February 2010
4. June 2, 2010 cover letter from Rozanne Stewart forwarding an additional document from Ms. Newton in which Ms. Newton explains her duties (date stamped May 27, 2010, DOH's HR Office. Ms. Newton included the following attachments to illustrate her points: (Many are duplicates of other exhibits).
 - 1) Allocation Determination letter March 5, 2010
 - 2) Director's Review Request Form
 - 3) PDF & Position Action Request (PAR) for Ms. Newton's position #70041523 dated December 30, 2009; Feb. 1, 2010 email from Sam Marshall
 - 4) Health Services Consultant 3 class specification
 - 5) Customer Service Specialist 4 class specification
 - 6) PDFs for Ms. Newton's position: Original, unsigned version requesting reallocation to HSC 3 (marked before); PDF dated December 30, 2009 (marked after).
 - 7) Organizational Charts dated Jan. & Feb. 2010 with handwritten notes
 - 8) Health Services Consultant 3 class specification with highlights
 - 9) Health Services Consultant 2 class specification with highlights
 - 10) Customer Service Specialist 4 class specification with highlights
 - 11) PDF for Position # 71012436 – allocated to HSC 2 with handwritten notes– illustrates Ms. Newton's argument regarding other positions (PDF is not for Ms. Newton's position – outside scope)

B. Department of Health Exhibits

1. Position Action Request (PAR) December 30, 2009
2. February 1, 2010 email from Shannon (Sam) Marshall to Rozanne Stewart regarding reallocation of Ms. Newton's position.
3. Position Description/Job Analysis for Ms. Newton's position #70041523, December 30, 2009
4. January 2010 email communications between Joshua Shipe, supervisor, and Ms. Stewart regarding clarification of duties
5. Allocation Determination letter March 5, 2010
6. Email confirmation Allocation Determination delivered.
7. Email confirmation Allocation Determination read.
8. Organizational Chart – November 30, 2009
9. Position Descriptions for the direct reports to Ms. Newton's position (positions directly supervised by Ms. Newton).

C. Class Specifications

1. Health Services Consultant 3 (283J)
2. Customer Service Specialist 4 (102D)
3. Customer Service Manager (103D)
4. Health Services Consultant 1 (283H)
5. Health Services Consultant 2 (283I)
6. Investigator 1 (427P)